

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

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**ADP BULLETIN**

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| Title Assessment of Civil Penalty in ADP Licensed Residential Facilities – Over Capacity | | Issue Date: 5-11-00 Expiration Date: Until Rescinded | Issue No. 00-15 |
| Deputy Director Approval (signed by) Joy A. Jarfors <i>Quality Assurance Division</i> | Function: [] Information Management [X] Quality Assurance [] Service Delivery [] Fiscal [] Administration | Supersedes Bulletin/ADP Letter No. | |

PURPOSE

Effective July 1, 2000, the Department of Alcohol and Drug Programs (ADP) will assess a civil penalty when a provider is discovered not adhering to the express conditions and limitations of their license (Title 9, California Code of Regulations [CCR], Chapter 5, Section 10513) under authority granted in CCR, Chapter 5, Section 10547.

DISCUSSION

Noncompliance of Section 10513 is considered a **Class A** deficiency and will result in an **immediate** civil penalty of **\$50 per person, per day** until the date the deficiency is corrected. Written documentation to correct the deficiency must be postmarked, faxed or received by ADP, which shows that the licensee is operating within the conditions and limitations of the license.

Conducting a compliance review/complaint investigation, citing deficiencies, and assessing civil penalties are granted under the authority in CCR, Title 9, (see references below).

IMPLEMENTATION

During compliance reviews or complaint investigations, whenever a licensee is found to be in noncompliance with Title 9, CCR, Chapter 5, Section 10513, a notice of deficiency will be issued for a Class A deficiency and a civil penalty of \$50 per person, per day will immediately be assessed. The \$50 per person, per day (up to \$150 per day) civil penalty will continue to accrue until the date the written documentation is postmarked or received by ADP which verifies that adherence to the conditions and limitations of licensure have been met.

REFERENCES

Title 9, CCR, Chapter 5, Section 10513 states:

A licensee shall not operate a facility beyond the conditions and limitations specified on the license.

Title 9, CCR, Chapter 5, Section 10541 states in part:

A Class A deficiency is any deficiency, which presents an imminent danger to any resident of the facility.

Title 9, CCR, Chapter 5, Section 10543 (d) states:

The complaint investigator may conduct a site investigation of the facility, with or without advance notice, at any reasonable time, upon presentation of proper identification, in order to determine compliance with the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code, and the requirements of this chapter.

Title 9, CCR, Chapter 5, Section 10544 (b) states:

Any authorized employee or agent of the Department may enter and inspect any alcoholism or drug abuse recovery or treatment facility at any reasonable time, upon presentation of proper identification, with or without advance notice, to determine compliance with the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code, and the requirements of this chapter.

Title 9, CCR, Chapter 5, Section 10547 (b) states in part:

The Department shall assess civil penalties from the date specified in the notice of deficiency or subsequent approved corrective action plan until the date the licensee submits written verification that the deficiency is corrected.

HISTORY

Prior to this bulletin, noncompliance with this section was cited as a Class A deficiency for over capacity if there were more residents than approved on the license. However, there were no civil penalties imposed.

QUESTIONS/MAINTENANCE

The importance of adhering to the express conditions and limitations of licensure cannot be emphasized enough. Over capacity is one of the most serious deficiencies because it presents an immediate danger to residents and staff.

EXHIBITS

None.

DISTRIBUTION

Residential Alcoholism or Drug Abuse Recovery or Treatment Facilities
County Alcohol and Drug Program Administrators
Director's Advisory Council (DAC)
Wagerman Associates, Inc.
Social Model Recovery Systems, Inc.
California Association of Addiction Recovery Resources